

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



ARIZONA CORPORATION COMMISSION



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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AZ CORP COMMISSION
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DATE: JULY 11, 2001

DOCKET NO.: T-03954A-00-0913

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Dwight Nodes. The recommendation has been filed in the form of an Opinion and Order on:

PACIFIC CENTREX SERVICES, INC.
(CC&N/FACILITIES-BASED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **12:00** p.m. on or before:

JULY 20, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 24, 2001 and JULY 25, 2001

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

Arizona Corporation Commission

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[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

6 IN THE MATTER OF THE APPLICATION OF
PACIFIC CENTREX SERVICES, INC. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE, INTEREXCHANGE, AND ACCESS
9 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03954A-00-0913

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING: June 14, 2001
11 PLACE OF HEARING: Phoenix, Arizona
12 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes
13 APPEARANCES: Jeffrey W. Crockett, SNELL & WILMER, LLP, on
14 behalf of Pacific Centrex Services, Inc.;
15 Janet Wagner, Staff Attorney, Legal Division, on behalf
16 of the Utilities Division of the Arizona Corporation
Commission.

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. On November 9, 2000, Pacific Centrex Services, Inc. ("Pacific" or "Applicant") filed
22 with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
23 provide competitive facilities-based and resold local exchange, interexchange, and access
24 telecommunications services in Arizona.

25 2. Pacific is a California corporation, authorized to do business in Arizona.

26 3. On May 6, 8, and 18, 2001, Pacific filed Proofs of Publication indicating compliance
27 with the Commission's notice requirements.

28 4. On March 9, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report, which recommended approval of the application and included a number of additional
2 recommendations.

3 5. On March 30, 2001, a Procedural Order was issued setting the matter for hearing on
4 June 14, 2001.

5 6. A hearing was held on June 14, 2001, at which Applicant and Staff presented
6 evidence. At the hearing, Staff made several minor changes to the Staff Report recommendations.

7 7. Pacific intends to commence negotiations with Qwest regarding an interconnection
8 agreement as soon as its Certificate is granted.

9 8. The management of Pacific has many years of experience in the telecommunications
10 industry.

11 9. Applicant has the technical capability to provide the services that are proposed in its
12 application.

13 10. Currently there are several incumbent providers of local exchange, toll, and exchange
14 access services in the service territory requested by Applicant, and numerous other entities have been
15 authorized to provide competitive local exchange services in all or portions of that territory.

16 11. It is appropriate to classify all of Applicant's authorized services as competitive.

17 12. The Staff Report stated that Applicant has no market power and the reasonableness of
18 its rates would be evaluated in a market with numerous competitors.

19 13. According to Staff, Pacific submitted its unaudited financial statements of its parent
20 company for the year ending May 31, 2000. These financial data list assets of \$3.73 million, total
21 shareholders equity of \$867,025, and an accumulated deficit of \$774,762. Based on this information,
22 Staff believes that Pacific lacks sufficient financial strength to offer the requested
23 telecommunications services in Arizona absent the procurement of a performance bond.

24 14. Staff recommends, as amended, that Pacific's application for a Certificate to provide
25 competitive facilities-based and resold telecommunications services be granted subject to the
26 following conditions:

27 (a) unless its provides services solely through the use of its own facilities, Pacific
28 should be ordered to procure an Interconnection Agreement before being
allowed to offer local exchange service;

- 1 (b) Pacific should be ordered to file with the Commission, within 30 days of an
2 Order in this matter, its plan to have its customers' telephone numbers included
in the incumbent's Directories and Directory Assistance databases;
- 3 (c) Pacific be ordered to pursue permanent number portability arrangements with
4 other LECs pursuant to Commission rules, federal laws and federal rules;
- 5 (d) Pacific be ordered to abide by and participate in the AUSF mechanism
6 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-T-
03905A-00-0513E-95-0498);
- 7 (e) Applicant be ordered to abide by the quality of service standards that were
8 approved by the Commission for USWC in Docket No. T-0151B-93-0183;
- 9 (f) in areas where Applicant is the sole provider of local exchange service
10 facilities, Pacific be ordered to provide customers with access to alternative
11 providers of service pursuant to the provisions of Commission rules, federal
12 laws and federal rules;
- 13 (g) Pacific be ordered to certify, through the 911 service provider in the area in
14 which it intends to provide service, that all issues associated with the provision
of 911 service have been resolved with the emergency service providers within
30 days of an Order in this matter;
- 15 (h) Pacific be ordered to abide by all the Commission decisions and policies
16 regarding CLASS services;
- 17 (i) Pacific be ordered to provide 2-PIC equal access;
- 18 (j) Pacific be required to certify that all notification requirements have been
19 completed prior to a final determination in this proceeding;
- 20 (k) Pacific be required to notify the Commission immediately upon changes to its
21 address or telephone number;
- 22 (l) Pacific be ordered to comply with all Commission rules, orders, and other
23 requirements relevant to the provision of intrastate telecommunications
service;
- 24 (m) Pacific be ordered to maintain its accounts and records as required by the
25 Commission;
- 26 (n) Pacific should be ordered file with the Commission all financial and other
27 reports that the Commission may require, and in a form and at such times as
28 the Commission may designate;
- (o) Pacific maintain on file with the Commission all current tariffs and rates, and
any service standards that the Commission may require;
- (p) Pacific should be ordered to cooperate with Commission investigations of
customer complaints;
- (q) Pacific be ordered to participate in and contribute to a universal service fund,
as required by the Commission; and

1 (r) In order to protect Pacific's customers:

- 2 (1) Pacific should be ordered to procure a performance bond equal to
3 \$100,000. The minimum bond amount of \$100,000 should be increased if
4 at any time it would be insufficient to cover prepayments or deposits
5 collected from Pacific's customers;
- 6 (2) that if the Applicant desires to discontinue service, it should file an
7 application with the Commission pursuant to A.A.C. R14-2-1107;
- 8 (3) that the Applicant should be required to notify each of its customers and
9 the Commission 60 days prior to filing an application to discontinue
10 service pursuant to A.A.C. R14-2-1107; and any failure to do so should
11 result in forfeiture of the Applicant's performance bond;
- 12 (4) that proof of the performance bond should be docketed within 90 days of
13 an Order in this matter or 30 days prior to the provision of service,
14 whichever comes first, and must remain in effect; however,
- 15 (5) if, at some time in the future, the Applicant's financial outlook improves,
16 Staff recommends that the Applicant be allowed to file a request for
17 cancellation of its established performance bond. Such request should be
18 accompanied by information demonstrating the Applicant's financial
19 viability. Upon receipt of such filing and after Staff review, Staff will
20 forward its recommendation to the Commission.

21 15. Staff further recommended that Pacific's tariffs be approved on an interim basis
22 subject to the following:

- 23 (a) That Pacific file tariffs in accordance with this Decision within 30 days of an
24 Order in this matter or within 30 days of an Order approving its
25 interconnection agreement, whichever is later;
- 26 (b) That Pacific should be required to file in this Docket, within 18 months of the
27 date it first provides service following certification, sufficient information for
28 Staff analysis and recommendation for a fair value finding, as well as for an
analysis and recommendation for permanent tariff approval. This information
must include, at a minimum, the following:
1. A dollar amount representing the total revenue for the first twelve months
of telecommunications service provided to Arizona customers by Pacific
following certification, adjusted to reflect the maximum rates that Pacific
has requested in its tariff. This adjusted total revenue figure could be
calculated as the number of units sold for all services offered times the
maximum charge per unit.
 2. The total actual operating expenses for the first twelve months of
telecommunications service provided to Arizona customers by Pacific

1 following certification.

- 2 3. The value of all assets, listed by major category, used for the first twelve
3 months of telecommunications services provided to Arizona customers by
4 Pacific following certification. Assets are not limited to plant and
equipment. Items such as office equipment and office supplies should be
included in this list.

- 5 (c) Pacific's failure to meet the condition to timely file sufficient information for a
6 fair value finding and analysis and recommendation of permanent tariffs
7 should result in the expiration of the Certificate of Convenience and Necessity
and of the tariffs.

8 16. At the hearing, Pacific agreed to comply with all of Staff's recommendations.
9 However, the Applicant requested a waiver from the \$100,000 bond requirement or, in the
10 alternative, that the bond not be required until the earlier of 180 days from the effective date of the
11 Order or 30 days prior to the provision of service. Staff opposed the request for waiver of the bond
12 requirement, but does not oppose Applicant's request for extension of submission of the bond for the
13 earlier of 180 days or 30 days prior to commencement of service. The Applicant indicated that it
14 intends to begin operations in Arizona within 6 to 12 months.

15 17. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion
16 in U S West Communications, Inc. vs. Arizona Corporation Commission, 1 CA-CV 98-0672, holding
17 that "the Arizona Constitution requires the Commission to determine fair value rate bases for all
18 public service corporations in Arizona prior to setting their rates and charges."

19 18. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
20 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this
21 time we are going to request FVRB information to insure compliance with the Constitution should
22 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also
23 are concerned that the cost and complexity of FVRB determinations must not offend the
24 Telecommunications Act of 1996.

25 CONCLUSIONS OF LAW

26 1. Applicant is a public service corporation within the meaning of Article XV of the
27 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
28

1 2. The Commission has jurisdiction over Applicant and the subject matter of the
2 application.

3 3. Notice of the application was given in accordance with the law.

4 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
5 Certificate to provide competitive telecommunications services.

6 5. Pursuant to Article XV of the Arizona Constitution as well as the Arizona Revised
7 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth
8 in its application.

9 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide
10 competitive facilities-based and resold local exchange, interexchange, and exchange access
11 telecommunications services in Arizona as conditioned by Staff's recommendations as modified
12 below.

13 7. The telecommunications services that the Applicant intends to provide are competitive
14 within Arizona.

15 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
16 it is just and reasonable and in the public interest for Applicant to establish rates and charges which
17 are not less than the Applicant's total service long-run incremental costs of providing the competitive
18 services approved herein.

19 9. Staff's recommendations in Findings of Fact Nos. 14 and 15 are reasonable, as
20 modified by Finding of Fact No. 16, and should be adopted.

21 **ORDER**

22 IT IS THEREFORE ORDERED that the application of Pacific Centrex Services Inc. for a
23 Certificate of Convenience and Necessity for authority to provide competitive facilities-based and
24 resold local exchange, and exchange access telecommunications services in Arizona shall be, and is
25 hereby, granted, as conditioned herein.

26 IT IS FURTHER ORDERED that Pacific Centrex Services, Inc shall comply with all of the
27 Staff recommendations set forth in Findings of Fact Nos. 14 and 15, as modified by the
28 recommendation described in Finding of Fact No. 16.

1 IT IS FURTHER ORDERED that Pacific Centrex Services, Inc. shall procure a performance
 2 bond equal to \$100,000 by the earlier of 180 days from the effective date of this Order or 30 days
 3 prior to the provision of service. The minimum bond amount of \$100,000 shall be increased if, at any
 4 time, it would be insufficient to cover prepayments or deposits collected from the Applicant's
 5 customers.

6 IT IS FURTHER ORDERED that Pacific Centrex Services, Inc. shall file with the
 7 Compliance Section of the Utilities Division a letter indicating the date on which it will begin
 8 providing service at least 60 days prior to providing service.

9 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

11
 12 CHAIRMAN

COMMISSIONER

COMMISSIONER

13
 14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 15 Secretary of the Arizona Corporation Commission, have
 16 hereunto set my hand and caused the official seal of the
 Commission to be affixed at the Capitol, in the City of Phoenix,
 this ____ day of _____, 2001.

17
 18 BRIAN C. McNEIL
 EXECUTIVE SECRETARY

19
 20 DISSENT _____
 DDN:dap

1 SERVICE LIST FOR: PACIFIC CENTREX SERVICES, INC.

2 DOCKET NO.: T-03954A-00-0913

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